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Claims 12, 14-18, 20, 24-28 and 31-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “for pressures ranging from 0.100 bar to 80 bar” renders the claims unclear since it can not be determined if the claims are limited to pressures of 0.100 to 80 bar and if not whether the claims are limited to temperatures of 60-250 degrees. It is suggested that claim 12 be amended to delete “for” from “for pressures ranging from 0.100 bar to 80 bar” and change “varies” to – being --. Claim 35 may be amended in a similar manner.

The newly added limitation in the last three lines of claim 12 is unclear as the variables are undefined. It is suggested that the newly added limitation in the last 4 lines of claim 12 be deleted.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 14-18, 20, 24-28 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guerret et al. (WO 00/71501, using 6657043 as a translation) in view of Fischer et al. (US 6,239,226) and further in view of Coran et al. (US 4,473,683) and optionally Datta (US 4,999,683).

See the Office action of 8-5-08 at page 4, lines 1 et seq. While Fishcher specifically discloses the addition of polystyrene-polyacrylate-polystyrene block copolymer to matrices including polystyrene, applicants do not appear to agree that the is sufficient motivation to select specifically polystyrene as the matrix to be impact reinforced. However, Datta at column 2, lines 34-50 specifically discloses that blocks in a block copolymer should be identical the matrix for maximum compatibility. Hence it would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention to specifically select the polystyrene of Fischer for impact modification of polystyrene polyacrylate polystyrene block copolymer of the primary reference in order to maximize impact strength absent any showing of surprising or unexpected results. With regard to claim 35, patentees do not in general disclose the amount of polystyrene in their block copolymer and therefore imply that any amount will work. Hence it would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention to use applicants amounts of polystyrene in the end blocks of the primary reference in the expectation of adequate results absent any showing of surprising or unexpected results. In any case Datta specifically disclose the use of applicants amount of "A" block at column 2, lines 25-30 and use of Dattas' amounts of "A" blocks in the process of Guerret as modified by Fischer would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of workable results as taught by Fischer absent any showing of surprising or unexpected results.

Claims 16 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guerret et al. (WO 00/71501, using 6657043 as a translation) in view of Fischer et al. (US 6,239,226) and further in view of Coran et al. (US 4,473,683) and optionally Datta (US 4,999,683) as applied to claim 12 above and optionally further in view of Pourallmady (EP 0947527).

Since the reaction features for forming applicants block copolymer are taught by the primary reference it would reasonably appear that applicants and Guerrets' polydispersities are inherently the same. However, applicants may not agree.

See the Office action of 8-5-08 at page 6, lines 9 et seq.

Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guerret et al. (WO 00/71501, using 6657043 as a translation) in view of Fischer et al. (US 6,239,226) and further in view of Coran et al. (US 4,473,683) and optionally Datta (US 4,999,683) as applied to claim 12 above and further in view of Billovitis et al (WO 98/52978).

See the Office action of 8-5-08 at page 7, lines 6 et seq.

Applicant's arguments filed 1-20-10 have been fully considered but they are not persuasive.

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Applicants are correct that the weight amount of "A" required by claim 35 is not taught or suggested by the prior art and claim 35 is therefore allowable over the prior art.. With regard to the rejections under 35 USC 112, second paragraph, the examiner has made suggestions above for overcoming them.

The newly added material in the last 4 lines of claim 12 has been presented without definition as to the parameters recited therein and is therefore meaningless as a limitation.

Claim 12 still recites the phrase "for" pressures and is therefore unclear if the claim is limited as to any particular pressure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis
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Jeffrey C. Mullis
Primary Examiner
Art Unit 1796

JCM

5-20-10

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Primary Examiner, Art Unit 1796